REMARKS

Claims 41, 51, 61, 71, 99, 101, 111, 121, 131, 141 and 142 have been amended to clarify the invention and better define the invention over the art. No new matter has been added.

Turning first to the rejections of claims 141 and 142 as directed to non-statutory subject matter under 35 U.S.C. §101, these claims have been amended to clarify the several steps that produce the "useful, concrete and tangible result" required to satisfy §101, pursuant to the *State Street* decision, 149 F.3d at 1373. In particular, Applicant teaches the formats, details and uses of the information that can be substituted for the CUSTOMER NAME and DISCRETIONARY DATA fields in a legacy ACH transaction format. When the ACH record format was initially formulated years ago, the CUSTOMER NAME field was supposed to be a secondary or auxiliary validation mechanism for the ACCOUNT NUMBER field. For an account number "123", the common customer name "Jones" or "Smith" is not exactly a definitive secondary validation, even if initials or a first name is included in this limited 15 character field. If one has a foreign last name that is longer than 15 characters, then the truncated name or a contracted form of the name may not be sufficient to discern multiple instances within the same family name that are holding separate accounts at the same institution. Even if names are contracted, the source encoding process may not be the same as the destination decoding process to provide an automated form of secondary validation. In an automated data capture process, the customer name may not (almost never) always be available to insert into the CUSTOMER NAME field in an ACH record. In summary, as a secondary validation mechanism, the CUSTOMER NAME field cannot be used for its originally intended design in

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the great majority of circumstances. Applicant teaches an explicit use for the CUSTOMER NAME and DISCRETIONARY DATA fields in the legacy ACH transaction format that indeed produces "a useful, concrete and tangible result," namely, providing end-to-end absolute benchmark information to the destination biller that is a common data point (transaction ID, date, time and place of payment) for all parties (the customer, the retailer, the bill payment network and the destination biller) involved in Applicant's bill payment transaction. While other inventions claim commonality in collecting date and time of payment (a very common procedure to time stamp all collected information, no matter what it is, as a rule of "just plain common sense"), none of the other inventions either describe what the collected data will be used for or how this data will eventually be transferred to the specified target – in this case the destination biller. Just because the biller may receive date and time of the customer retail payment in a proprietary data format, it is not incumbent that the biller use this information when crediting a customer account. Unless the biller receives coincident funds and payment data, legally, the biller only has to recognize a Regulation Z commitment as the legal minimum for all received bill payments. Applicant teaches a common data baseline that can be used for contractual commitments that favor the transaction consummation process. The customer gets a more favored payment date than the minimum Regulation Z legally recognized commitment, the biller has a quantitative means to measure and track service delivery of those transactions from the bill payment network and customer suspicion of artificially induced payment delays "somewhere in the network" are significantly reduced. These features are not taught anywhere else. For the foregoing reasons, it is believed that the §101 rejection as to claims 141 and 142 has been traversed and therefore should be withdrawn.

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Turning next to the rejection of claims 99-100 and 141-142 as indefinite under 35 U.S.C. §112, second paragraph, claim 99 has been amended to clarify the steps of the claimed method. It is believed that this amendment traverses the indefiniteness rejection with regard to claim 99, as well as claim 100 depending therefrom. Claims 141 and 142 have been amended to clarify that these claims are directed, respectively, to a method for including additional data in an ACH funds transfer, and a method for including additional data in an electronic funds transfer. It is believed that these amendments traverse the indefiniteness rejection with regard to claims 141 and 142, which Applicant respectfully submits should now be withdrawn.

Turning now to the art rejections, and considering first the rejection of claims 41-43, 45-53, 55-63, 65-73, 75-92, 94, 96, 101-103, 105-113, 115-123, 125-133 and 135-140 as anticipated under 35 U.S.C. §102(e) by Applewhite, U.S. Application Pub. No. 2003/0023553 ("Applewhite"), Applicant respectfully submits that Applewhite does not teach an operable invention and is non-enabling, as argued above in the "Introductory Comments" section, and therefore cannot properly be used to maintain a rejection of Applicant's claims. Moreover, claims 41, 51, 61, 71, 101, 111, 121, and 131 have all been amended to clarify that the bar code embodies an algorithmic signature identifying the bar code as being proprietary to the bill payment paradigm of the present invention, without requiring any additional information to disambiguate the bar code from the plethora of other bar codes that exist within the retail market. Support is provided in the specification at p. 19, line 14 through p. 28, line 19. Applewhite neither specifies the characteristics of his indicia (bar code type, bar code format and bar code target dimensions) nor teaches how existing equipment can differentiate his bar code as an Applewhite bill payment from all other bar codes that could be present at retail in

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the form of grocery items or internal biller-printed bar codes on the biller's invoice. Therefore, Applicant respectfully submits that the anticipation rejection of claims 41, 51, 61, 71, 101, 111, 121, and 131 should be withdrawn. Likewise, the anticipation rejection should also be withdrawn as to claims 42, 43, 45-50, 52, 53, 55-60, 62, 63, 65-70, 72, 73, 75-90, 92, 94, 96, 102, 103, 105-110, 112, 113, 115-120, 122, 123, 125-130, 132, 133, and 135-140 depending therefrom, which are patentable for the reasons given with respect to their parent claims, as well as for their own additional limitations.

Considering next the rejection of claims 81-92 as anticipated under 35 U.S.C. §102(e) by Applewhite, Applicant respectfully submits that Applewhite does not teach an operable invention and is non-enabling, as argued above in the "Introductory Comments" section, and therefore cannot properly be used to maintain a rejection of Applicant's claims. Moreover, independent claims 81 and 82 both require an accounts receivable system adapted to credit an account corresponding to the payor in the amount of payment as of the date and time the bill payment system received the payor's payment. Even if Applewhite were enabling, Applewhite fails to teach an accounts receivable system that provides credit for payment as of the date and time payment was made. Regarding claims 83 and 84, both of these claims require concomitant transfer of funds and data. Even if Applewhite were enabling, Applewhite's EFT or management computer 315, whether or not it formulates the data into an electronic funds transfer format, does not have the capability of submitting valid data files to the Federal Reserve ACH network (or any other financial network for that matter) as third-party submission entities. As external non-responsible entities to the retailer organization, they do not have the authority to submit ACH credit/debit data on behalf of the retailer account. To the

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contrary, claims 83 and 84 explicitly require concomitant remission of customer payment data and good electronic funds, which Applewhite fails to teach. Claims 85-92 depend from claims 81-84 and are patentable for the reasons given with respect to their parent claims, as well as for their own additional limitations. Therefore, Applicant respectfully submits that the obviousness rejection of claims 81-92 is in error and should be withdrawn.

Considering now the rejection of claims 44, 54, 64, 74, 104, 114, 124 and 134 under 35 U.S.C. §103(a) as obvious over Applewhite in view of Finocchio, U.S. Patent No. 5,317,135 ("Finocchio"), Applicant respectfully submits that this rejection is in error. First, these claims are all patentable as depending from patentable parent claims 41, 51, 61, 71, 101, 111, 121 and 131, as argued above, due to the deficiencies of Applewhite. Second, Finocchio is not analogous art, as Finocchio teaches a method and apparatus for validating instant-win lottery tickets, and not a financial transaction system. Thus, one skilled in the art of financial transaction systems would not have been aware of the teachings of Finocchio. Moreover, the Examiner has not set forth a *prima facie* case for obviousness, as the Examiner has provided no motivation for combining the teachings of Finocchio with teachings regarding financial transaction systems. In particular, Applicant notes that Finocchio uses a validation mechanism to prevent fraud in a winning lottery ticket situation. Finocchio's system employs a mechanism where a central authority has control over bar codes used in his system, with regard both to printing and to data detection. To the contrary, there is no central authority in Applicant's invention that has direct printing and data detection control over the bar code mechanism being employed; the central authority merely provides to the biller certain bar code print specifications that must fall within industry standards, and the central authority is not involved

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in the printing of invoices or the data detection process itself. In a winning lottery ticket situation, there is ample reason to believe and to protect against the fraud that will be attempted by the general public because of the potentially high value a winning lottery ticket might have. In Applicant's bill payment situation, it would be highly unusual and unlikely for an individual to try to fraudulently make a bill payment that intentionally credits someone else's account. In short, Applicant's bar code is a disambiguation mechanism, whereas the primary purpose Finocchio bar code design is a fraud prevention mechanism. For non-winning lottery tickets, the use of the Finocchio bar code fraud prevention mechanism is of no consequence and is not used in every case. On the other hand, where customer bill payments are submitted at retail for payment, Applicant's bar code is used every time. Thus, even if Finocchio were analogous art, one skilled in the art would still not have been motivated to apply Finocchio's teachings to the present invention, and moreover, one skilled in the art could still not arrive at Applicant's invention by employing, in part, the teachings of Finocchio. For these reasons, the obviousness rejection as to claims 44, 54, 64, 74, 104, 114, 124 and 134 is in error and should be withdrawn.

Now considering the rejection of claims 141 and 142 under 35 U.S.C. §103(a) as obvious over Thomas et al., U.S. Patent No. 6,317,745 ("Thomas"), as noted above, Applicant has amended these claims to clarify that these claims are directed, respectively, to a method for including additional data in an ACH funds transfer, and a method for including additional data in an electronic funds transfer. These claims have also been amended to clarify the several steps that produce the "useful, concrete and tangible result" required to satisfy §101, as discussed above. Thomas specifically teaches the substitution of specified ACH UID (or

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Applicant's specified Biller ID) and replacing the true bank routing account information for the destination biller. This is an old and common data processing technique to protect confidential financial information where ACH UID or Biller ID might be the "public" face but true bank routing and account remittance information is the "private" face information that is required to remit funds through the Federal Reserve ACH network. In claims 141 and 142, Applicant claims information substitution in the CUSTOMER NAME and DISCRETIONARY DATA fields, which is an entirely different matter altogether. These claims do not embody the concept of aliasing information that is dependent on either a public or private situation operational mode. Thomas teaches his aliasing techniques for INTERMEDIATE files that are exchanged between the originator and a trusted third-party remittance organization. The trusted third-party submitter remits data files in the standard "vanilla" ACH format. And while these financial data files, containing customer payment data, may have similar characteristics of the standard ACH format, ANY data format proprietary or otherwise, exchanged between intermediary networks is acceptable. What Thomas does not teach is the substitution of relevant information in the final ACH format to the destination recipient that has the capability of securing a more favored customer payment date by the creditor. The reason for this omission is very obvious when one considers the vast financial benefits that accrue to these intermediary networks from the "float" derived from, intentional or otherwise, transmission delays and late payment penalties assessed by the billers. There is no incentive for these intermediate networks to expedite customer payment data and funds to the destination biller because these networks lose the financial float that is an inherent and critical feature of their profit margin business model. Destination billers have a similar "disincentive" to credit

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customer accounts in a timely manner if there can be penalty assessments applied to customer accounts for payments intentionally delayed by as little as a few hours. In both of these cases, there is no common end-to-end traceability for transaction data traversing from the source retailer Point-of-Sale collection point to the destination biller Accounts Receivable deposit point. As discussed in Amendment A filed herein, typical late payment penalties of $29 per occurrence amounts to an APR rate that exceeds, by many magnitudes, the maximum legal usury rates imposed by all states. Applicant explicitly teaches modifications in the legacy ACH format, delivered to destination billers, a mechanism that can mitigate the penalties charged by intermediate networks and destination billers. Large financial networks, such as VISA, Mastercard, and Checkfree would lose a large source of their enormous profit margins if Applicant's invention were implemented as an independent customer-centered financial remission network. Applicant explicitly teaches how the ACH legacy format can accommodate a customer payment date, time and place so that a subscription mechanism (biller sign-up) permits a contractual binding between the biller / customer (biller according the customer retail date and time of payment as creditor receipt of payment) and between the payment network / biller (biller receiving payments within a clearly defined service contract between the network and the biller that permits adequate time to marshal funds from the retailer). Thomas, therefore, cannot render claims 141 and 142 obvious, and thus, it is respectfully submitted that the obviousness rejection with respect to these claims should be withdrawn.

Having dealt with all of the objections raised by the Examiner, it is believed that the application is now in condition for allowance. Early and favorable action are respectfully requested.

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Respectfully submitted,

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